IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

WP(C).No. 23929 of 2007(W)

OS.126/2004 of MUNSIFF COURT, RANNI
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PETITIONER:

M.T.JOSEPH, AGED 69 YEARS,
S/O.LATE M.J.THOMAS, MUKKARANATHU EDATHARA,
THEKKEPURAYIDATHIL, KUMPLAMPOIKA,
KUMARAMPEROOR, SOUTH MURI, VADASSERIKKARA VILLAGE,
RANNI TALUK.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENT:

THOMAS MATHEW,
MUKKARANATHU EDATHARA,
THEKKEPURAYIDATHIL, KUMPLAMPOIKA,
KUMARAMPEROOR SOUTH MURI,
VADASSERIKKARA VILLAGE, RANNY TALUK.

BY ADV. SRI.BIJI MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Appendix

Petitioner's Exts:

Ext.P1 copy of the plaint in OSD 126/2004 on the file of Munsiff Court, Ranny.

Ext.P2 copy of the written statement submitted by first defendant, Thomas Mathew in OS 126/2004.

Ext.P3 copy of IA 410/2007 filed by petitioner for the appointment of an Advocate Commissiooner before Munsiff Court, Ranny.

Ext.P4 copy of the order in IA 410/07 in OS 126/2004 dated 31.5.2007.

M.N.Krishnan, J.

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W.P(C).No.23929 of 2007

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Dated this the 14th day of September, 2007.

JUDGMENT

This Writ Petition is filed challenging Ext.P4 order passed by the Munsiff, Ranny in I.A.No.410 of 2007 in O.S.No.126 of 2004. The suit is one for partition filed by the plaintiff ignoring the documents and the defendants would contend that there is already an effective partition and that it is not maintainable. The partibility or otherwise is a matter that has to be considered by the court after permitting the parties to adduce evidence. There is no dispute regarding the property involved in the suit. So there is no question of any identification dispute. Which is the property that the plaintiff is entitled to is a matter that will arise for consideration only after a preliminary decree is passed in his favour and therefore at this stage, there is no necessity for the issuance of a Commission and therefore the order passed by the learned Munsiff, Ranny is in accordance with law.

Writ Petition is dismissed.

M.N.Krishnan,
Judge.

ess 15/9